

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LEROME HILSON,

Petitioner,

-against-

HAROLD GRAHAM,

Respondent.

**OPINION AND ORDER**

17 Civ. 8861 (ER) (KHP)

Ramos, D.J.:

Lerome Hilson brings this *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on the grounds that he received ineffective assistance of counsel. Pending before the Court is Superintendent Harold Graham’s motion to dismiss the petition as untimely under 28 U.S.C. § 2244(d). Doc. 16. On July 25, 2018, Magistrate Judge Katharine H. Parker issued a Report and Recommendation (“Report”), recommending that Graham’s motion be granted and that the petition be dismissed, and notifying the parties that they had seventeen or fourteen days from service of the Report to file written objections. Doc. 32. Over seventeen days have since elapsed, and neither party has filed objections to the Report.

**I. Standard of Review**

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Parties may file specific written objections to the report and recommendation “[w]ithin fourteen days after being served with a copy.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). “3 days are added” to that period when “service is made under Rule 5(b)(2)(C) (mail), (D) (leaving with the clerk), or (F) (other means consented to).” Fed. R. Civ. P. 6(a), (d).

A district court reviews *de novo* those portions of the report and recommendation to which timely and specific objections are made. 28 U.S.C. § 636(b)(1)(C). The district court may adopt those parts of the report and recommendation to which no party has timely objected, provided no clear error is apparent from the face of the record. *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

## **II. Discussion**

Because neither party has filed objections to the Report, the Court reviews it for clear error. The Court has carefully reviewed Judge Parker's thorough and well-reasoned Report and finds no error, clear or otherwise. Accordingly, the Court adopts the Report in its entirety. Graham's motion is GRANTED, and the petition is DISMISSED.

Hilson's failure to file objections precludes appellate review of this decision. *See Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam). In addition, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Opinion and Order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

The Clerk of the Court is respectfully directed to terminate the motion, Doc. 16, mail a copy of this Opinion and Order to Hilson, and close the case.

It is SO ORDERED.

Dated: February 22, 2019  
New York, New York

  
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Edgardo Ramos, U.S.D.J.